

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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Nicolas Kolokithias,

Plaintiff,

v.

Convergent Outsourcing, Inc.,

Defendant.

Civil Action No.: \_\_\_\_\_

**COMPLAINT**

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For this Complaint, Plaintiff, Nicolas Kolokithias, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

3. Plaintiff, Nicolas Kolokithias ("Plaintiff"), is an adult individual residing in Queens Village, New York, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant, Convergent Outsourcing, Inc. ("Convergent"), is a Washington business entity with an address of 800 Southwest 39<sup>th</sup> Street, Renton, Washington 98057, and is a "person" as defined by 47 U.S.C. § 153(39).

**FACTS**

5. In 2014, Convergent began calling Plaintiff's cellular telephone, number 347-xxx-2503, using an automatic telephone dialing system ("ATDS") and using an artificial or

prerecorded voice.

6. When Plaintiff answered calls from Convergent, he heard a prerecorded message.

7. Plaintiff never provided his cellular telephone number to Convergent and never provided consent to receive automated calls from Convergent.

8. In addition, Plaintiff spoke with Convergent and requested that the calls cease.

9. Nevertheless, Convergent continued to place automated calls to Plaintiff's cellular telephone number.

**COUNT I**  
**VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, et seq.**

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number using an ATDS and using a prerecorded or artificial voice.

12. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

13. The telephone number called by Defendant was and is assigned to a cellular telephone serviced by Sprint for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

14. Plaintiff was annoyed, harassed, and inconvenienced by Defendant's continued calls.

15. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each call made in knowing and/or willful violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully prays that judgment be awarded in Plaintiff's favor and against Defendant as follows:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: March 13, 2017

Respectfully submitted,

By: /s/ Sergei Lemberg

Sergei Lemberg (SL 6331)  
LEMBERG LAW, LLC  
43 Danbury Road, 3<sup>rd</sup> Floor  
Wilton, CT 06897  
Telephone: (203) 653-2250  
Facsimile: (203) 653-3424  
Email: slemberg@leberglaw.com  
Attorneys for Plaintiff